

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JOSE ROSA,	:	
	:	Civil No. 4:05-CV-2386
Petitioner	:	
	:	(Judge McClure)
v.	:	
	:	
RONNIE HOLT, Warden,	:	(Magistrate Judge Smyser)
	:	
Respondent.	:	

**O R D E R**

February 8, 2006

**BACKGROUND:**

On or about November 17, 2005, petitioner Jose Rosa filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. The matter is assigned to United States Magistrate Judge J. Andrew Smyser.

On December 20, 2005, respondent Ronnie Holt filed a motion for an enlargement of time to file a response. The following day, on December 21, 2005, Magistrate Judge Smyser granted the request. On or about December 29, 2005, Rosa filed an objection to the Magistrate Judge's order enlarging the time for the filing of a response. On January 10, 2006, already after Holt's response was filed, Magistrate Judge Smyser construed Rosa's December 29, 2005 filing as a motion

for reconsideration of the order enlarging Holt's time to file a response and denied his motion because there was a credible basis for the extension and it was necessary in order to have a complete and accurate record in order for the court to adjudicate the petition. (Order, Rec. Doc. No. 13, at 2.)

## **DISCUSSION:**

### **I. ROSA'S "APPEAL" (OBJECTIONS)**

Now before the court is Rosa's January 26, 2005 objections "Concerning Denial of Objection of Enlargement of Time." (Rec. Doc. No. 15.) The basis of Rosa's appeal is convoluted. Rosa is not objecting to a dispositive matter. Essentially he argues that the Assistant United States Attorney should refrain from participating in the action and the respondents should not have been granted an extension of time. We agree with the reasoning set forth in Magistrate Judge Smyser's January 9, 2006 order and will deny his appeal.

**NOW, THEREFORE, IT IS HEREBY ORDERED THAT:**

Rosa's objections to the Magistrate Judge's December 21, 2005 order granting an enlargement of time to file a response to the petition and the January 9, 2006 motion for reconsideration on the same motion is denied.

s/ James F. McClure, Jr.  
James F. McClure, Jr.  
United States District Judge